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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,462	03/19/2004	Marko Torvinen	NOKM.089PA	7266
7590 Hollingsworth & Funk, LLC Suite 125 8009 34th Avenue South Minneapolis, MN 55425			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/804,462

Applicant(s)

TORVINEN, MARKO

Examiner

RAMY M. OSMAN

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-33, 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This communication is responsive to amendment filed on May 8, 2008, where applicant amended claims 1,4,6,11-30, and cancelled claims 3,34. Claims 1,2,4-33,35-37 are pending.

Response to Arguments

2. Applicant's arguments and amendments, filed 5/8/2008, with respect to the rejection(s) of claim(s) 1-37 have been fully considered and are partially persuasive.
3. Applicants amendments and arguments regarding the 101 non-statutory subject matter rejection of claims 20-25 and 28-29 are persuasive and the rejection is therefore withdrawn.
4. Applicants amendments and arguments regarding the 102 rejection of claims 1-8,11,12, 14,15,17,20-23,26-31,35-37 are persuasive, however they are moot in view of new grounds of rejection, in view of Cuomo et al US Patent 6,148,328. The amended limitations of "composite group availability", and its variants, will be interpreted in light of Applicants remarks on page 12 of arguments, i.e. a "group is capable of having its own set of presence attributes".
5. Applicant argues that the 101 non-statutory subject matter rejection of claims 26-27 is in error because the discloses structures include for example "program embodied on one or more computer usable media".

In reply, Examiner disagrees. For example, independent claim 26 recites an "apparatus" comprising "means for" steps for facilitating presence based group information. However, lines 9-11, in Paragraph 71 of Applicants disclosure, states that "hardware, firmware, software, or a combination thereof may be used..." to implement the invention. It is therefore seen that the

scope can encompass software only. Furthermore, the presence module and the SIP module mentioned in paragraph 65 can be seen as software modules construed to be the “means for”. In the broad sense of the term, an “apparatus” is a system of functions. Based upon the specification, it is seen that this can be a software embodiment. The claims are non-statutory because they are not limited to being drawn to a physical hardware device, or a combination of hardware and software.

6. Applicant argues that Pivowar does not remedy the deficiencies of Mathis and fails to suggest any relation between synchronizing personal data and determining presence information.

In reply, Pivowar was not relied upon for teaching determining presence information. Mathis was shown to already teach that. Synchronizing calendar and personal data between terminals is desirable so that the terminals can schedule events together while resolving any conflicts that may naturally arise when scheduling common events between multiple parties who each have their own unique availability. (Pivowar, column 1 line 63 – column 2 line 4)

Claim Rejections - 35 USC § 101

7. Claims 26-27 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For example, independent claim 26 recites an “apparatus” comprising “means for” steps for facilitating presence based group information. However, lines 9-11, in Paragraph 71 of Applicants disclosure, states that “hardware, firmware, software, or a combination thereof may be used...” to implement the invention. It is therefore seen that the scope can encompass software only. Furthermore, the presence module and the SIP module mentioned in paragraph 65 can be seen as software modules construed to be the “means for”. In

the broad sense of the term, an “apparatus” is a system of functions. Based upon the specification, it is seen that this can be a software embodiment.

The claims are non-statutory because they are not limited to being drawn to a physical hardware device, or a combination of hardware and software.

Claim Objections

8. Claim 20 objected to because of the following informalities: Remove the word “of” in line 10 (it is mentioned twice). Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. Claim 11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 11 recites the limitation “the composite availability status” in line 10-11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,4-8,11,12,14,15,17,20-23,26-31,35-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Mathis (US Patent Publication No 2003/0083046) in view of Cuomo et al (US Patent No 6,148,328).

3. In reference to claim 1, Mathis teaches a method comprising:

maintaining presence information associated with a group of terminals (¶ 15 lines 18-20 and ¶ 16 lines 2-14 Mathis discloses tracking and displaying presence information of a group of users);

maintaining presence information associated with each member of the group of terminals (¶ 19 lines 4-15, Mathis discloses collecting and storing presence information of a group of client devices); and

activating a group communication channel from a first member of the group of terminals to available terminals within the group of terminals (¶ 10 lines 4-9 and ¶ 16 lines 2-14, Mathis discloses utilizing a contact list that contains presence information of client devices, and discloses invoking a group dispatch call (i.e. group communication channel) from one user to many users), wherein availability is determined using presence information associated with each member of the group of terminals (¶ 15 lines 18-20 and ¶ 16 lines 2-14, Mathis discloses that availability is based on presence information associated with client device(s)).

Mathis fails to explicitly teach wherein programmable availability rules determine a composite group availability using presence information associated with the group of terminals. However, Cuomo teaches determining aggregate presence information of a total number of users who make up a group of users in a chat based system (column 1 lines 20-31). Cuomo discloses that the composite group availability is configurable (i.e. programmable) and determines

availability of the group (column 6 line 63 – column 7 line 13). Cuomo teaches that this is useful in alerting a user about the presence of other users who are part of a group list and who are currently online. This gives the user real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself (column 1 lines 48-56).

Therefore, it would have been obvious for one of ordinary skill in the art to modify Mathis to include a composite group availability using presence information associated with the group of terminals so that the user has real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself.

4. In reference to claim 2, Mathis teaches the method according to claim 1, wherein presence information associated with each member of the group of terminals is maintained within a server coupled to the network (§ 18 lines 1-5 and § 19 lines 12-14 and Figure 1 #112, Mathis discloses a server centrally storing presence information).

5. In reference to claim 4, Mathis teaches the method according to claim 1, wherein the programmable availability rules includes location information associated with each member of the group of terminals (§ 19 lines 1-13).

6. In reference to claim 5, Mathis teaches the method according to claim 2, wherein the presence information is communicated to the first member of the group of terminals by the server (§ 19 lines 3-4 & 15-19).

7. In reference to claim 6, Mathis teaches the method according to claim 5, wherein the availability is determined by the first member in response to programmable availability rules (§

19 lines 1-2 & 5-12, Mathis discloses the client determines its own availability and sends to server).

8. In reference to claim 7, Mathis teaches the method according to claim 6, wherein the programmable availability rules includes location information associated with each member of the group of terminals (§ 19 lines 6-7).

9. In reference to claim 8, Mathis teaches the method according to claim 1, wherein activating the group communication channel includes transmitting an instant message from the first member to the available terminals (§ 10).

10. In reference to claim 11, Mathis teaches a system, comprising:

terminals coupled through a network to form a group (§ 15 lines 18-20); and
presence servers coupled to the network and adapted to maintain presence information associated with each of the terminals and adapted to maintain presence information associated with the group (§ 19 lines 4-15 and Figure 1 #112), the terminals comprising:

a group presence module adapted to communicate with the presence servers to maintain availability status of the group and each terminal within the group (§ 16 lines 1-14 and § 19 lines 15-25), wherein a group communication channel is established in response to the availability status (§ 10 lines 4-9).

Mathis fails to explicitly teach wherein programmable availability rules determine a composite group availability using presence information associated with the group of terminals. However, Cuomo teaches determining aggregate presence information of a total number of users who make up a group of users in a chat based system (column 1 lines 20-31). Cuomo discloses that the composite group availability is configurable (i.e. programmable) and determines

availability of the group (column 6 line 63 – column 7 line 13). Cuomo teaches that this is useful in alerting a user about the presence of other users who are part of a group list and who are currently online. This gives the user real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself (column 1 lines 48-56).

Therefore, it would have been obvious for one of ordinary skill in the art to modify Mathis to include a composite group availability using presence information associated with the group of terminals so that the user has real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself.

11. In reference to claim 12, Mathis teaches the system according to claim 11, further comprising location servers coupled to the network and adapted to maintain location information associated with each terminal of the group (§ 19 lines 4-15).

12. In reference to claim 14, Mathis teaches the system according to claim 13, wherein the group presence module is further adapted to determine the availability status from the presence information and location information associated with each terminal (§ 16 lines 1-14 and § 19 lines 15-25).

13. In reference to claim 15, Mathis teaches an apparatus comprising:

a transceiver capable of communicating via a network which includes a group of mobile terminals wirelessly coupled to the network (§ 13);

a memory capable of storing at least one of a group presence module and a protocol module (§ 15 lines 18-20 and § 16 lines 2-14);

a processor coupled to the memory and configured by the group presence module to formulate an availability status associated with each member of the group of mobile terminals (§ 16 lines 2-14); and

wherein the transceiver configured to facilitate content exchange with available members of the group (§ 10 lines 4-9 and § 11), the available members being selected in accordance with their availability status (§ 16).

Mathis fails to explicitly teach wherein programmable availability rules determine a composite group availability using presence information associated with the group of terminals. However, Cuomo teaches determining aggregate presence information of a total number of users who make up a group of users in a chat based system (column 1 lines 20-31). Cuomo discloses that the composite group availability is configurable (i.e. programmable) and determines availability of the group (column 6 line 63 – column 7 line 13). Cuomo teaches that this is useful in alerting a user about the presence of other users who are part of a group list and who are currently online. This gives the user real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself (column 1 lines 48-56).

Therefore, it would have been obvious for one of ordinary skill in the art to modify Mathis to include a composite group availability using presence information associated with the group of terminals so that the user has real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself.

14. In reference to claim 17, Mathis teaches the apparatus according to claim 15, wherein the content exchange includes an instant message exchange (§ 11).

15. In reference to claim 20, Mathis teaches a computer-usable medium having instructions stored thereon which are executable by a mobile terminal for establishing a group communication channel with a group of mobile terminals in a network by performing steps comprising:

accumulating presence information associated with the group and each member of the group of mobile terminals (§ 15 lines 18-20 and § 16 lines 2-14);

determining availability of each member using the accumulated presence information; displaying the availability of each member (§ 15 lines 18-20 and § 16 lines 2-14); and

creating the group communication channel in response to programmable rules of availability (§ 10 lines 4-6 and § 19 lines 1-13).

16. In reference to claim 21, Mathis teaches the computer-readable medium of claim 20, performing steps further comprising displaying a summary availability associated with the group of mobile terminals (§ 16 lines 2-14).

17. In reference to claim 22, Mathis teaches the computer-usable medium of claim 20, wherein creating the group communication channel comprises: determining the communication status requested by each member; and transmitting information to each member in accordance with the requested communication status (§ 19 lines 4-15).

18. In reference to claim 23, Mathis teaches the computer-usable medium of claim 22, wherein transmitting the information includes transmitting an instant message (§ 11).

19. In reference to claims 26-27, these are system claims that correspond to the computer readable medium claims of claims 20 & 22. Therefore, claims 26-27 are rejected based upon the same rationale as given for claims 20 & 22 above.

20. In reference to claims 28-29, these claims correspond to the computer usable medium claims of claims 20 & 22. Therefore, claims 26-27 are rejected based upon the same rationale as given for claims 20 & 22 above.

21. In reference to claim 30, Mathis teaches a method, comprising: activating an information field associated with the group (§ 21); monitoring presence information associated with the group (§ 19 lines 4-15); determining an availability status of the group based on the presence information (§ 19 lines 4-15); and communicating the information field to the group in response to its availability status (§ 19 lines 15-25).

Mathis fails to explicitly teach wherein programmable availability rules determine a composite group availability using presence information associated with the group of terminals. However, Cuomo teaches determining aggregate presence information of a total number of users who make up a group of users in a chat based system (column 1 lines 20-31). Cuomo discloses that the composite group availability is configurable (i.e. programmable) and determines availability of the group (column 6 line 63 – column 7 line 13). Cuomo teaches that this is useful in alerting a user about the presence of other users who are part of a group list and who are currently online. This gives the user real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself (column 1 lines 48-56).

Therefore, it would have been obvious for one of ordinary skill in the art to modify Mathis to include a composite group availability using presence information associated with the group of terminals so that the user has real time information about the presence status of the group as a whole without the user having to manually inspect the presence of the group himself.

22. In reference to claim 31, Mathis teaches the method according to claim 30, wherein activating the information field comprises activating an instant message portal to generate the information field (§ 11).
23. In reference to claim 35, Mathis teaches the method according to claim 30, wherein communicating the information field further comprises determining the communication status requested by each member of the group (§ 19 lines 4-15).
24. In reference to claim 36, Mathis teaches the method according to claim 35, wherein the communication status comprises a communication preference to be used when communicating the information field (§ 19 lines 4-15).
25. In reference to claim 37, Mathis teaches the method according to claim 36, wherein the communication preference comprises one of an email preference, a voice call preference, a Short Message Service (SMS) preference, and an Instant Message (IM) preference (§ 11).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. **Claims 9,10,18,19,24,25,32,33 rejected under 35 U.S.C. 103(a) as being unpatentable over Mathis (US Patent Publication No 2003/0083046) in view of Pivowar et al (US Patent No 6,457,062).**

28. In reference to claim 9, Mathis teaches the method according to claim 1. Mathis fails to explicitly teach wherein activating the group communication channel includes synchronizing a calendar entry of the first member with calendar entries of the available terminals. However, Pivowar discloses synchronizing personal calendar information between a plurality of different PDAs by establishing communication between them for exchanging the calendar information (Pivowar, column 2 lines 15-27 and column 5 lines 35-40 & 45-49). Pivowar teaches that the synchronization of particular calendar information between multiple users is beneficial for resolving conflicts in meeting/event scheduling between multiple parties that each have meeting/event schedules in their PDA calendars (Pivowar, column 1 line 63 – column 2 line 4).

It would have been obvious for one of ordinary skill in the art to modify Mathis wherein activating the group communication channel includes synchronizing a calendar entry of the first member with calendar entries of the available terminals as per the teachings of Pivowar for the benefit of resolving conflicts in meeting/event scheduling between multiple parties.

29. In reference to claim 10, Mathis teaches the method according to claim 1. Mathis fails to explicitly teach wherein activating the group communication channel includes synchronizing a task list of the first member with task lists of the available terminals. However, Pivowar discloses synchronizing personal calendar information between a plurality of different PDAs by establishing communication between them for exchanging the calendar information (Pivowar, column 2 lines 15-27 and column 5 lines 35-40 & 45-49). Pivowar teaches that the synchronization of particular calendar information between multiple users is beneficial for resolving conflicts in meeting/event scheduling between multiple parties (Pivowar, column 1 line

63 – column 2 line 4). The meeting/event schedules of Pivowar are equivalent to the “task lists” of the claim.

It would have been obvious for one of ordinary skill in the art to modify Mathis wherein activating the group communication channel includes synchronizing a task list of the first member with task lists of the available terminals as per the teachings of Pivowar for the benefit of resolving conflicts in meeting/event scheduling between multiple parties.

30. In reference to claims 18-19, these are apparatus claims that correspond to the method claims of claims 9-10. Therefore, claims 18-19 are rejected based upon the same rationale as given for claims 9-10 above.

31. In reference to claims 24-25, these are computer usable medium claims that correspond to the method claims of claims 9-10. Therefore, claims 24-25 are rejected based upon the same rationale as given for claims 9-10 above.

32. In reference to claims 32-33, these claims correspond to the method claims of claims 9-10. Therefore, claims 32-33 are rejected based upon the same rationale as given for claims 9-10 above.

33. Claims 13 & 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Mathis (US Patent Publication No 2003/0083046) in view of Weaver et al (US Patent No 7,031,700).

34. In reference to claims 13 and 16, Mathis respectively teaches the system according to claim 12, and the corresponding mobile terminal according to claim 15. Mathis fails to explicitly teach wherein the terminals further comprise a Session Initiation Protocol (SIP) module to facilitate communication with the presence servers and location servers. However, Weaver

discloses group conferencing that utilizes the well known Session Initiation Protocol to initialize communication with communication servers (Weaver, column 8 lines 4-8). Weaver teaches that participant users establish communication with the servers according to SIP and the servers enable establishment of the group conference (Weaver, column 7 lines 47-67).

It would have been obvious for one of ordinary skill in the art to modify Mathis wherein the terminals further comprise a Session Initiation Protocol (SIP) module to facilitate communication with the presence servers and location servers as per the teachings of Weaver so that participant users can establish communication with the servers according to the well known SIP and the servers enable establishment of a group conference between the users.

Conclusion

35. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pat No 6750881, Appleman discloses tracking status of select co-users of an online system.

Pat Pub No 20040205134, Digate et al discloses obtaining aggregate user online presence information.

37. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Examiner, Art Unit 2157